REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claims 19, 22 through 25, 33 through 39, and 55 through 66 remain in this application. Claims 1 through 18, 20, 21, and 26 through 32 have been cancelled. Claims 40 through 54 have been withdrawn. No claims have been added.

Claims 19, 20, 22 through 39 and 55 through 66 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa (USPN 5,946,664, hereinafter "Ebisawa") in view of Margulis (USPN 6,456,340, hereinafter "Margulis").

Claim 19 requires, in part, "wherein the communication assembly allows the virtual product source to *update the position of* the virtual product location in the removable moving media through *repositioning of the removable content relative to the source content*" (emphasis added). Similarly, but not identically, claim 33 requires "wherein the virtual product is updated on the moving media in the virtual product location, and *the position of the virtual product location relative to the moving media is updated*" (emphasis added). Further, claims 55, 56 and 66 each require "wherein the communication assembly allows the virtual product source to *update the position of the virtual product location* in the removable moving media through *repositioning* of the removable content relative to the source content" (emphasis added).

It is alleged in the rejection of the claims in the Office Action that (emphasis added):

> With respect to the newly amended feature of updating the position of the virtual product location in the removable moving media through repositioning of the removable content relative to the source content (i.e. In Figures 1A-1B, and Figures 2A-2B, In order for advertisements A and C to be replaced with advertisements B and D, the location of advertisements A and C has to be changed in order for advertisements B and D to take it's place. Therefore advertisements B and D's location is also updated or improved from a non-display location to a display location).

However, the allegation that "the location of A and C *has to be changed* in order for advertisements B and D to take it's place" appears to not be based upon what Ebisawa actually teaches, but instead appears to be based upon what the Patent Office believes *should* happen. If one looks to the actual disclosure of the Ebisawa patent, particularly Figures 1A and 1B, which actually show the sequential positions of the advertisement data elements "A" and "B" in the Ebisawa system, the positioning of the advertisement data elements on the screen is *identical*, and thus *is not changed* or "reposition[ed]... *relative to the source content*" as required by the claims.

One can speculate that the position of the advertisement data elements "A" and "B" is changed in the Ebisawa system, but that is merely speculation of what "has to be", and not an actual teaching or disclosure of the Ebisawa patent. Perhaps the Patent Office is relying upon an "inherent" teaching of the Ebisawa patent (which was not identified in the Office Action), but when the Ebisawa patent discloses the *position* of the advertisement data elements "A" and "B" as unchanging (such as in Figures 1A and 1B), this appears to be inconsistent with any "inherent" teaching of changing positions.

In the "Response to Arguments" portion of the Office Action, it is contended that:

> Applicant argues that Ebisawa doesn't teach that the position of the removable content relative to the source content may be updated. The Examiner respectfully disagree with Applicant because in Ebisawa the location of advertisement B and D are updated. In Figures 1A-1B, and Figures 2A-2B, In order for advertisements A and C *to* be replaced with advertisements B and D, the location of advertisements A and C *has to be changed* in order for advertisements B and D to take it's place. Therefore advertisements B and D's location is also updated or Improved from a non-display location to a display location.

Again, this portion of the remarks in the Office Action relies upon the belief that "the location of advertisements A and C *has to be changed*". The language of the claims addresses the *positioning* of the "removable content *relative to* the source content", and not merely the "location" of advertisements, and thus it is the position of the removable content relative to the source content that is updated, and not merely the content of the advertisement that is updated.

The distinction here becomes more clear when one looks to the disclosure of the Ebisawa, such as at col. 5, lines 35 through 50, where it states:

> In either case, commercial advertisements are kept "current", and since the amount of advertisement data is relatively small compared to the size of the game program itself, the amount of "download" time is small in the first discussed embodiment. Of course, the download time of advertisement selection code S in the second discussed embodiment is insubstantial.
>
> In accordance with the present invention, updated or "new" advertisement data is downloaded or a new advertisement selection code is downloaded each time a game program is executed. However, such data need not be downloaded every time the game program is executed, and instead, may be downloaded only on a new day or a new week (or month) on which the game program is executed.

As can be appreciated from this portion of the Ebisawa patent, it lacks any discussion of the updating of the *position* of the "advertisement data" in the

game (in contrast to the updating of the *content* of the advertisement), and therefore it is submitted that Ebisawa would not lead one of ordinary skill in the art to "repositioning of the removable content relative to the source content" as required in claim 19, or the similar requirements in the other independent claims.

In summary, it is submitted that one of ordinary skill in the art, considering the disclosure of the Ebisawa patent, would be led to "advertisement data A, B, C, and D" that is uniformly located in the same *location*, even as the advertisement data displayed is changed from A to B to C to D, and so forth. Considering Figures 1A and 1B of the Ebisawa patent, it is clear that the position of the advertisement data *remains the same* and that there is no updating of the position of the advertisement data. Similarly and consistently, Figures 2A and 2B show the substitution of "D" for "C" in the video game, but the position is clearly not changed or updated.

It is therefore submitted that not only does the Ebisawa not lead one of ordinary skill in the art to "the communication assembly allow[ing] the virtual product source to update the position of the virtual product location in the removable moving media through repositioning of the removable content relative to the source content", as the Ebisawa could only lead one of ordinary skill in the art toward a consistent, unchanging location for its advertising data that is not updated when the advertisement data is changed. It is therefore also submitted that the allegedly obvious combination of Ebisawa and Margulis would not lead one of ordinary skill in the art to the combination of requirements of claims 33, 55, 56, and 66, and in particular the requirements set forth above.

Withdrawal of the rejection of claims 19, 22 through 25, 33 through 39, and 55 through 66 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

GATEWAY, INC.

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Jeffrey A. Proehl (Reg. No. 35,987)
WOODS, FULLER, SHULTZ & SMITH P.C.
P.O. Box 5027
Sioux Falls, SD 57117-5027
(605)336-3890 FAX (605)339-3357